

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

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| VOCALSPACE, LLC |) | |
| |) | |
| v. |) | Case No. 4:09-cv-350 |
| |) | |
| DANIEL D. LORENZO, ET AL |) | |

**VOCALSPACE’S RESPONSE IN OPPOSITION TO DEFENDANTS’ MOTION FOR
WITHDRAWAL OF COUNSEL AND CONCURRENCE WITH MOTION FOR
WITHDRAWAL OF COUNSEL**

COMES NOW, Plaintiff VocalSpace, LLC (“VocalSpace”), and files this its Response In Opposition to Defendants’ Motion for Withdrawal of Counsel and Concurrence with Motion for Withdrawal of Counsel, and, in support thereof, respectfully shows the Court as follows:

This is a copyright infringement case concerning Defendants’ flagrant misuse and misappropriation of VocalSpace’s source code. Discovery in this case has repeatedly been delayed as a result of Defendants changing counsel and other delaying tactics. Defendants have changed counsel in this matter no less than three times, and each change of counsel has resulted in further delays in the production of documents critical to prosecuting Plaintiff’s claims. On July 12, 2010, Defendants’ counsel, Richard D. Pullman and Collins, Basinger, & Pullman, P.C. (collectively “Defendants’ counsel”) filed their Motion for Withdrawal in this case, and Defendants filed their Concurrence with Motion for Withdrawal (“Concurrence”). Defendants filed the Concurrence “in consideration for Collins, Basinger, & Pullman, PC agreeing to refund to the Lorenzo Defendants \$3,500 in attorneys’ fees.” *See* “Concurrence with Motion for Withdrawal of Counsel” (Dkt 63).

In theory, Plaintiff does not oppose Defendants' Motion for Withdrawal of Counsel, so long as Defendants comply with all discovery obligations prior to withdrawal. Defendants' failure to respond to Plaintiff's outstanding discovery requests is causing considerable delay and impeding Plaintiff's ability to prosecute this lawsuit. To that end, Plaintiff has filed a Motion to Compel and Motion for Sanctions. *See* "VocalSpace's Motion to Compel Source Code and for Sanctions" (Dkt 64). Accordingly, Plaintiff requests that the Court deny Defendants' Motion for Withdrawal until after Defendants have complied with all discovery obligations. Plaintiff further requests that the \$3,500, which Defendants agreed to as consideration for the granting of their Motion, be transferred directly from Defendants' counsel to Plaintiff as partial payment for the \$7500 Plaintiff seeks as sanctions in its Motion to Compel and Motion for Sanctions.

WHEREFORE Plaintiff respectfully requests that the Court enter an Order requiring Defendants to comply with all discovery obligations prior to withdrawal of counsel, as Defendants cannot use its counsel's withdrawal as an excuse to justify any further delay or to in any manner impede Plaintiff's ability to prosecute this lawsuit. Plaintiff further requests that the \$3,500, which Defendants agreed to as consideration for the granting of their Motion, be transferred directly from Defendants' counsel to Plaintiff as partial payment for the \$7500 Plaintiff seeks as sanctions in its Motion to Compel and Motion for Sanctions.

Respectfully submitted,

/s/ Brian A. Colao

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 23, 2010. Any other counsel of record will be served by First Class U.S. Mail on this same date.

/s/ Brian A. Colao